



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 25 2017

CERTIFIED MAIL 70052570000145356446
RETURN RECEIPT REQUESTED

Mr. Stanley Scheidler

(b) (6)

RE: Information Request Letter 308-017-001

Dear Mr. Scheidler:

The U.S. Environmental Protection Agency, has learned that an unauthorized discharge of dredged and/or fill material may have occurred in waters of the United States at your property located at 1000 Lazy Bee Lane, Vanceburg, Lewis County, Kentucky, at Latitude 38.613474° N and Longitude - 83.475534° W (See Exhibit A of enclosed Information Request). According to our preliminary investigation, the discharge may have occurred in 2014 in connection with the construction of a recreational pond.

Initially, Kentucky Division of Water (DOW) discovered that you were constructing a pond in 2009 and alleged that you were in violation of Kentucky statutes for construction without a permit, for discharging sediment into the tributary of Quicks Run and for not obtaining a 401 Water Quality Certification. The DOW notified the U.S. Army Corps of Engineers (COE), and a COE representative met with you onsite on May 6, 2010. On December 22, 2010, the COE met with you again onsite and explained the federal permitting process in detail, at which point you informed the COE that you no longer wished to build the pond. The COE noted at that site visit that the fill material that had been placed in the stream had been removed.

On April 23, 2014, the DOW responded to a complaint and discovered that a pond was again being constructed on your Lewis County, Kentucky, property without the appropriate permit from the COE. The DOW again notified the COE, and accordingly the COE issued a Cease and Desist (C&D) Letter to you on April 16, 2015. The C&D Letter stated that the COE had information that an approximately 7.78-acre lake was constructed on your property and that the construction of the lake resulted in the filling and impoundment of approximately 1,000 linear feet of an unnamed perennial tributary of Quicks Run.

On February 17, 2016, the COE sent you a letter advising that no permit had been issued for the construction of this pond and documented a meeting you had with the COE on June 3, 2015, in which you indicated that you would develop a plan to resolve the violation on your property. The COE asked you to provide a restoration plan within 30 days of receipt of its letter to remove the dam and restore the stream channel, or to submit an after-the-fact permit authorization for all work, along with a mitigation plan. As you had neither restored the site nor obtained a proper permit from the COE for the construction of your recreational pond, on June 21, 2016, the COE referred this matter to the EPA for resolution.



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MAY 25 2017

CERTIFIED MAIL 70053110000362664019
RETURN RECEIPT REQUESTED

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(b) (6)

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On October 12, 2016, an EPA Inspector, Joel Strange, met with you onsite and explained in detail the reason for the EPA's involvement. You were informed that discharges of pollutants into waters of the U.S. require a permit from the COE, and that the COE had indicated they were still willing to permit the project with appropriate mitigation. At this time, the EPA is continuing its investigation of the matter.

In order for the EPA to fulfill its responsibilities under Sections 309 and 404 of the Clean Water Act, 33 U.S.C. §§ 1319 and 1344, we need certain information to aid us in reaching an appropriate resolution. The EPA has been authorized to gather information pertaining to this matter under Section 308 of the CWA, 33 U.S.C. § 1318. Failure to respond to this letter, or falsification of any information in the response, may result in the issuance of an administrative, civil, or criminal action with penalties of up to \$52,414 per day.

The EPA would appreciate your assistance in providing the information requested in the enclosed Information Request. This information request is an effort to determine the circumstances surrounding the unauthorized activities on the property in question. Please provide the information requested in the Information Request within thirty (30) days of receipt of this letter. Your response should be sent to:

Mr. Joel Strange
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
Wetlands Enforcement Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

After the EPA receives and reviews your response to this Information Request, the agency will contact you in order to schedule a follow-up meeting or conference call to further discuss your responses in order to determine whether the EPA should take enforcement action against you with respect to this matter.

If you believe that any of the requested information is Confidential Business Information (CBI), you may assert a business confidentiality claim by stamping documents you wish to protect with a suitable stamp such as "confidential," "trade secret," or "CBI." Please separate documents that you wish to protect as CBI from non-confidential documents.

If you do not assert a CBI claim, the EPA may make information submitted under this request available to the public without further notice to you. Additional information regarding the EPA's requirements for confidential treatment of information can be found in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.*

If you have any questions concerning this matter, please contact Mr. Joel Strange at (404) 562- 9455, or have your attorney contact Mrs. Kavita Nagrani at (404) 562-9697.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas McGill', with a large, stylized flourish at the end.

Thomas McGill
Chief
Ocean, Wetlands and Stream Protection Branch

Enclosure

cc: Mr. Mike Ricketts, Corps of Engineers, Louisville District
Mr. David Baldrige, Corps of Engineers, Louisville District
Ms. Stephanie Hayes, KY Division of Water
Mr. Phillip A. Broomall, KY Division of Enforcement

EPA SECTION 308 INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this information request.
2. Precede each answer with the number of the Question to which it corresponds.
3. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
4. You must provide the information requested even though you may contend that it includes confidential business information (CBI) such as trade secrets. You may, if you desire, assert a CBI claim covering part or all of the information requested, under 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words "trade secret," "proprietary," or "company confidential" stamped or typed on it. Information covered by such claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in the regulation set forth above. **If you do not assert a confidentiality claim, when you submit your information to the EPA, EPA may disclose the information to the public without further notice to you.** You should read the above cited regulations carefully before asserting a CBI claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

5. The term "identify" means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term "Discharge Area" means the jurisdictional waters that have been impacted either through filling or dredging as a result of the unauthorized activities that are the subject of this enforcement action. More specifically, the Discharge Area includes the newly constructed pond site, on your property located at 1000 Lazy Bee Lane, Vanceburg, Lewis County, Kentucky, at Latitude 38.613474° N and Longitude -83.475534° W. The Discharge Area is indicated on the enclosed Exhibit A.
8. The term "Site" means the parcel or parcels of land on which the Discharge Area is located.
9. The term "Work" means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, dam construction, berm construction, mechanical land clearing, piping of streams or filling activities that have occurred in wetlands or other waters of the United States (to include streams) at the Site since you owned, controlled, or did any Work on the Site.
10. The term "you" and/or Respondent" shall mean Mr. Stanley Scheidler.

Questions

Please provide EPA with the following information or documents pertaining to the Discharge Area identified in Exhibit A:

1. Copies of any deeds, leases, easements, or other documents revealing the ownership interest or interests in the Site.
2. The name and address of any contractor or individual who directed or participated in the Work at the Site. Please provide any invoices for work conducted on the Discharge Area.
3. The types of equipment used to carry out the Work and the names and addresses of the person and/or companies that own and/or operate the equipment. If the equipment is owned by you, then indicate the date the equipment was purchased.
4. The date upon which Work was commenced and the date upon which the Work was completed or will be completed.
5. A description of all Work at the Discharge Area performed by the Respondent, or on behalf of the Respondent by its subcontractors or agents.

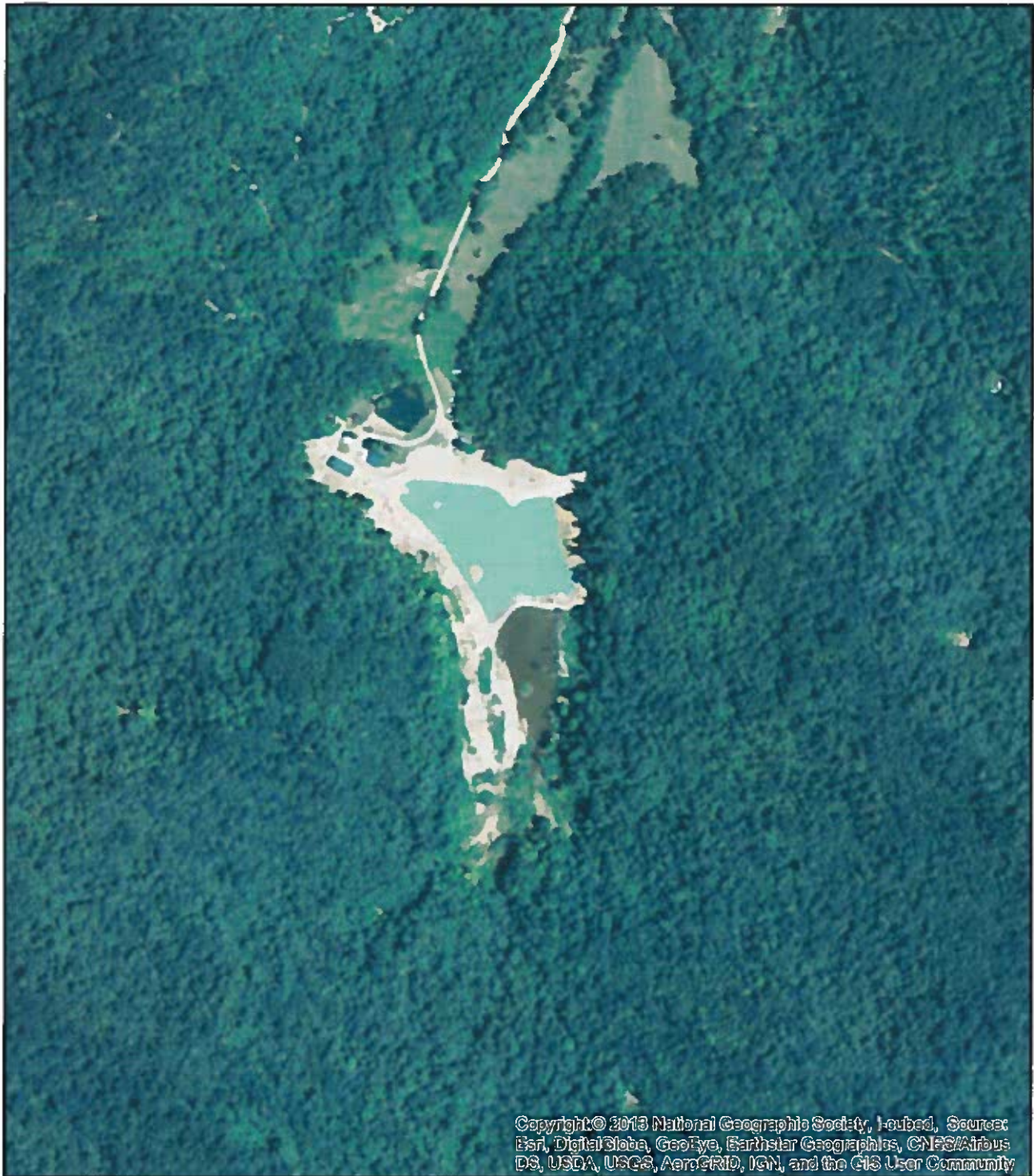
6. A description of any Work performed at the Discharge Area by any entity other than the Respondent, its subcontractors, or agents.
7. A description of the entire scope of activities at the Discharge Area including any maps and engineering plans.
8. Copies of any on-site environmental assessments that were done on soils, vegetation or hydrology at the Site.
9. Copies of any Federal, State or local permits that may have been received for the Work on the Site.
10. Plans for any additional land disturbing activities at the Site including activities in waters of the United States.
11. Copies of any written or verbal communication with Federal, State, or local agencies regarding the Work (to include handwritten notes).
12. Copies of any contracts covering Work at the Discharge Area.
13. A description of all best management practices that were used to prevent dirt, debris, and sediment from entering the waters of the United States located on the Site.
14. Please identify the individual or individuals who prepared the responses to this Information Request.

At the end of your response to this information request, please include the following certification:

I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA.

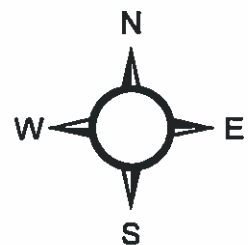
Name
Title

Exhibit A



Stanley Scheidler Property Lewis County, Kentucky

0 125 250 500 Yards



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